

PREHEARING CONFERENCE and EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	
)	
Niland Gas Turbine Plant,)	Docket No.
Small Power Plant Exemption)	06-SPPE-1
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CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

THURSDAY, SEPTEMBER 14, 2006

1:37 P.M.

Reported by:
Peter Petty
Contract No. 170-04-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Jeffrey D. Byron, Associate Member

HEARING OFFICER and ADVISORS PRESENT

Garret Shean, Hearing Officer

Kevin Kennedy, Advisor to Presiding Member Byron

Peter Ward, Advisor to Associate Member Boyd

STAFF AND CONSULTANTS PRESENT

Kerry A. Willis, Staff Counsel

Jack Caswell, Project Manager

Steve Baker

APPLICANT

Allan J. Thompson, Attorney

Henryk A. Olstowski
Imperial Irrigation District Energy

Dana L. Diller, Consultant
High Energy Resource Services
Imperial Irrigation District

Douglas Hahn
URS Corporation

David Johnson
Power Engineers, Inc.

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1 P R O C E E D I N G S

2 1:37 p.m.

3 ASSOCIATE MEMBER BYRON: My name is Jeff
4 Byron; I'm the Presiding Member on this SPPE
5 application. And joining me at the dais here is
6 my Senior Advisor, Kevin Kennedy. Commissioner
7 Boyd could not be with us this afternoon, and in
8 his stead is his Advisor Peter Ward. And I'm
9 going to turn this over to our Hearing Officer,
10 Mr. Garret Shean.

11 HEARING OFFICER SHEAN: Thank you,
12 Commissioner. We have noticed today as the
13 prehearing conference, and if there are no
14 contested issues and no opposition to it, we will
15 roll this over into an evidentiary hearing to
16 establish the record by which the Committee can
17 then produce its Presiding Member's Proposed
18 Decision.

19 What we intend to do after the parties
20 have had an opportunity to introduce themselves,
21 is to go through the list that appears in appendix
22 A of the prehearing conference notice; determine
23 whether or not anyone is requesting a hearing on
24 it or not. If we do not hear from the parties who
25 are present, and if no one is on the telephone

1 from Niland or any other community, given that we
2 have teleconferencing capability so that this
3 proceeding is open to any member of the public or
4 organization who wishes to, at this time,
5 intervene and indicate that they wish to have
6 testimony either from the applicant or the staff,
7 or present testimony on any issue.

8 If that does not occur during the
9 pendency of the initial portion of this
10 proceeding, we are going to then commence the
11 evidentiary proceeding, since it will indicate
12 that all matters are uncontested.

13 And so far the two prehearing conference
14 statements filed by the staff and the applicant
15 indicate that there are no issues that are
16 contested between them.

17 So, with that, let's go to the applicant
18 and have you introduce your team.

19 MR. THOMPSON: Thank you very much, Mr.
20 Shean. We have four individuals representing the
21 project here today that I would like to present as
22 a panel if the Commission believes that that would
23 be acceptable. Mr. Henryk Olstowski and Dana
24 Diller, representing IID. Douglas Hahn from URS
25 Corporation, the environmental consultant. And

1 David Johnson from Power Engineers.

2 As we indicated in our prehearing
3 conference statement, we have reviewed the staff
4 final study. We concur, and our testimony will
5 show that we concur with the conclusions based in
6 that, and have no issues with staff and no
7 disagreements with the final study.

8 HEARING OFFICER SHEAN: All right.

9 Thank you, Mr. Thompson.

10 Ms. Willis.

11 MS. WILLIS: Thank you, good afternoon.
12 My name is Kerry Willis; I'm Senior Staff Counsel.
13 And with me is our Project Manager, Jack Caswell.
14 We also brought along, for informational purposes,
15 Steve Baker, who performed our noise analysis.

16 And as the applicant says, we don't have
17 any issues at this point in time.

18 HEARING OFFICER SHEAN: All right, I
19 think it's important to indicate for the record,
20 too, that on the day of the informational hearing
21 and site visit for the IID El Centro project that
22 Members of the Committee, and we do have a new
23 Member in Commissioner Byron, went for our own
24 impromptu site visit of the Niland project and the
25 surrounding community.

1 So, we have made this Commissioner aware
2 of the setting for the project, itself, as well as
3 the neighboring community, as well as the former
4 Marine Corps Camp up above you, which -- and that
5 was a very interesting trip.

6 So, with that what we'd like to do is go
7 now to appendix A and determine, and I think we
8 can say I have heard both Mr. Thompson and Ms.
9 Willis indicate that there is no issue on appendix
10 A that you would propose to contest, is that
11 correct?

12 MR. THOMPSON: That is correct.

13 MS. WILLIS: That is correct.

14 HEARING OFFICER SHEAN: All right.

15 Well, with that, then let's roll this into an
16 evidentiary proceeding.

17 ASSOCIATE MEMBER BYRON: Excuse me one
18 moment. Can we be sure that indeed the phone
19 lines are open? Is that a concern here in the
20 event someone was phoning in?

21 HEARING OFFICER SHEAN: I don't know how
22 we'd check that. Well, first of all, we've had it
23 done. And if nobody calls in, I don't know any
24 indicator --

25 ASSOCIATE MEMBER BYRON: All right,

1 fine.

2 MR. CASWELL: I witnessed the Hearing
3 Office Secretary open up the lines and responses
4 from the telephone company that the lines were
5 open.

6 ASSOCIATE MEMBER BYRON: Okay, thank
7 you.

8 HEARING OFFICER SHEAN: All right. With
9 that, why don't we have the applicant present it
10 team, have them sworn in and present the testimony
11 that you wish.

12 MR. THOMPSON: I would like to start
13 with --

14 HEARING OFFICER SHEAN: Why don't we
15 start with this.

16 MR. THOMPSON: That's a good idea.
17 Could I ask my four witnesses to rise and raise
18 your right hands to be sworn, please.
19 Whereupon,

20 HENRYK OLSTOWSKI, DANA DILLER, DOUGLAS HAHN
21 and DAVID JOHNSON
22 were called as witnesses herein, and after first
23 having been duly sworn, were examined and
24 testified as follows:

25 THE REPORTER: Could you all

1 individually state and spell your names, please.

2 MR. HAHN: My name's Douglas Hahn,
3 D-o-u-g-l-a-s, last name Hahn, H-a-h-n.

4 MS. DILLER: Dana Diller, D-a-n-a
5 D-i-l-l-e-r.

6 MR. OLSZOWSKI: Henryk Olstowski, H-e-n-
7 r-y-k, last name O-l-s-t-o-w-s-k-i.

8 MR. JOHNSON: David Johnson. D-a-v-i-d
9 J-o-h-n-s-o-n.

10 DIRECT EXAMINATION

11 BY MR. THOMPSON:

12 Q Let me start with Mr. Johnson. You have
13 stated your name; what is your place of
14 employment?

15 MR. JOHNSON: Power Engineers,
16 Incorporated in the Haley, Idaho office.

17 MR. THOMPSON: And what have been your
18 responsibilities with regard to the Niland
19 project?

20 MR. JOHNSON: My assignment has been
21 project engineer, general supervision of the
22 technical work performed by Power.

23 MR. THOMPSON: Thank you. And over the
24 course of this proceeding, the applicant has
25 submitted a number of documents, many of those

1 required engineer data and analysis.

2 Did Power Engineers perform this
3 engineering support?

4 MR. JOHNSON: Yes.

5 MR. THOMPSON: And was this engineering
6 support performed by you or under your
7 supervision?

8 MR. JOHNSON: Yes.

9 MR. THOMPSON: And, finally, as you are
10 now under oath, is this material that has been
11 submitted true and correct to the best of your
12 knowledge?

13 MR. JOHNSON: Yes.

14 MR. THOMPSON: Thank you. I would like
15 to move on to the second member of our panel, Mr.
16 Hahn.

17 Would you please state your name and
18 place of employment.

19 MR. HAHN: Yes, Douglas Hahn with URS
20 Corporation in Denver, Colorado.

21 MR. THOMPSON: And what are your
22 responsibilities at URS?

23 MR. HAHN: To compile and oversee the
24 management of large environmental documents
25 similar to the SPPE that we submitted here.

1 MR. THOMPSON: And what have been your
2 responsibilities with regard to the Niland
3 project?

4 MR. HAHN: To oversee the URS task
5 leaders and team in the preparation of that
6 document.

7 MR. THOMPSON: And over the course of
8 this proceeding applicant has submitted a number
9 of documents, many of these required environmental
10 analysis and conclusions, such as noise
11 measurements.

12 Did URS provide this support?

13 MR. HAHN: Yes, we did.

14 MR. THOMPSON: And was this
15 environmental analysis and environmental
16 conclusions performed by you or under your
17 supervision?

18 MR. HAHN: Yes, they were.

19 MR. THOMPSON: And finally, as you're
20 now under oath, is this material true and correct
21 to the best of your knowledge?

22 MR. HAHN: Yes, sir.

23 MR. THOMPSON: Thank you very much. Ms.
24 Diller, would you please state your name.

25 MS. DILLER: Dana Diller.

1 MR. THOMPSON: And what is your place of
2 employment?

3 MS. DILLER: I own an energy consulting
4 firm by the name of High Energy Resource Services.

5 MR. THOMPSON: Have you been retained by
6 Imperial Irrigation District? And if so, in what
7 capacity?

8 MS. DILLER: Yes. High Energy Resources
9 Services has been retained by Imperial Irrigation
10 District to provide project management services
11 for the Niland Gas Turbine plant.

12 My role in the project was to serve as
13 the project development manager.

14 MR. THOMPSON: And what have been your
15 responsibilities as project development manager?

16 MS. DILLER: I have overall
17 responsibilities for the development process, the
18 regulatory environmental processes, procurement,
19 real estate, financial management and other
20 development work to get the project to the point
21 where it's ready to start construction.

22 MR. THOMPSON: Were part of your
23 responsibilities the retention of URS as an
24 environmental consultant?

25 MS. DILLER: URS was hired as part of an

1 IID purchasing procurement process, an RFP
2 process. I was not on the selection committee,
3 but I did assist in the RFP process.

4 MR. THOMPSON: And similarly, were part
5 of your responsibilities the retention of Power
6 Engineers for engineering support?

7 MS. DILLER: Yes. Power Engineers was
8 also hired as a result of an IID purchasing RFP
9 process. I was not on the selection committee,
10 but assisted in the RFP process, and also
11 participated in interviewing the engineer
12 candidates.

13 MR. THOMPSON: And have you reviewed and
14 approved documents submitted to the California
15 Energy Commission in this proceeding including
16 responses to data requests?

17 MS. DILLER: Yes.

18 MR. THOMPSON: Specifically with regard
19 to noise, would you please summarize the
20 commitment made by IID for plant and operational
21 noise for Niland.

22 MS. DILLER: As is indicated in the
23 final initial study, noise condition 3, the
24 project, IID and applicant has committed to design
25 and construct the project in such a manner that

1 during operations the facility will not cause
2 noise levels at any sensitive receptor to exceed
3 45 dba.

4 MR. THOMPSON: Thank you. And finally,
5 as you are now under oath, are the materials
6 submitted to the Commission in this proceeding
7 true and correct to the best of your knowledge?

8 MS. DILLER: Yes.

9 MR. THOMPSON: Thank you. Let me turn
10 to our final witness, Mr. Henryk Olstowski. You
11 stated your name previously; would you tell us by
12 whom you are employed and in what capacity.

13 MR. OLSTOWSKI: I'm employed by Imperial
14 Irrigation District; I'm the Assistant Manager of
15 energy.

16 MR. THOMPSON: And what are your duties
17 and responsibilities in that position?

18 MR. OLSTOWSKI: I'm responsible for all
19 of IID's generating assets; and IID also owns, or
20 participates in some joint ownership projects that
21 I oversee, also.

22 MR. THOMPSON: And what are your
23 responsibilities with regard to the Niland Gas
24 Turbine Plant?

25 MR. OLSTOWSKI: I'm the project owner,

1 and that title with IID means that I'm responsible
2 for oversight of the project development team, and
3 ultimately the project, and project schedule and
4 project costs are maintained within the budgeted
5 amounts approved by our five-member board of
6 directors.

7 MR. THOMPSON: Have you reviewed the
8 staff final initial study submitted in this
9 proceeding?

10 MR. OLSTOWSKI: I have not reviewed the
11 final initial study, but I rely on the project
12 development staff to identify any issues that
13 would be unacceptable to Imperial Irrigation
14 District.

15 And I have read a condensed version of
16 the final initial study that presented all the
17 conditions of exemption.

18 MR. THOMPSON: On behalf of Imperial
19 Irrigation District do you accept the conclusions
20 contained in the final initial study?

21 MR. OLSTOWSKI: Yes.

22 MR. THOMPSON: Again, on behalf of
23 Imperial Irrigation District, do you agree to
24 comply with all conditions of exemption contained
25 in that document?

1 MR. OLSZOWSKI: Yes, I do.

2 MR. THOMPSON: That completes our direct
3 testimony. The four witnesses of this panel are
4 ready for any questions or cross-examination.

5 HEARING OFFICER SHEAN: Why don't we do
6 this. Have you move the application for the SPPE,
7 your data responses and any other documentation
8 that you've provided us to date.

9 MR. THOMPSON: Without specifically
10 numbering or listing those --

11 HEARING OFFICER SHEAN: Why don't you
12 just parrot back what I just said and we'll accept
13 it.

14 MR. THOMPSON: Would the Committee and
15 this Commission please accept as exhibits in this
16 proceeding, the application for an SPPE and
17 applicant's data request responses to Commission
18 Staff data requests? And any other documents
19 relied on by the staff in this proceeding.

20 HEARING OFFICER SHEAN: Is there
21 objection to the admission of that evidence?

22 MS. WILLIS: No objection.

23 HEARING OFFICER SHEAN: Hearing none,
24 it's admitted. Thank you.

25 MR. THOMPSON: Thank you.

1 HEARING OFFICER SHEAN: I guess I just
2 have one question. It probably is for Mr.
3 Olstowski. I'll let it -- first of all, let me
4 back up with regard to the engineering.

5 So, as far as the noise condition number
6 3, is it IID's position or through your
7 contractors here, that it is engineeringly
8 feasible to maintain a noise level not exceeding
9 45 dba at any of the nearby sensitive receptors?

10 MR. OLSTOWSKI: Yes, based on the
11 information I was provided, that is very do-able.
12 And we've adjusted our contract with General
13 Electric to be able to do that.

14 HEARING OFFICER SHEAN: All right. I
15 guess just for the purposes of the record should
16 that somehow not come to pass, that the Commission
17 would likely, in the event of noise complaints
18 that have sufficient gravity, if they were not
19 able to maintain that 45 dba, probably want to
20 come back and consider measures that would take
21 place offsite once you've exhausted all possible
22 onsite mitigation.

23 So, that's just out there. Hopefully
24 not necessary, but just as a caveat.

25 Have any questions?

1 ASSOCIATE MEMBER BYRON: No, I don't,
2 thank you very much.

3 HEARING OFFICER SHEAN: Any questions
4 from the staff?

5 MS. WILLIS: None.

6 HEARING OFFICER SHEAN: All right.
7 Well, we'd like to thank you, ladies and gentlemen
8 from IID and your contractors, and for having been
9 as helpful and forthcoming and timely on all this
10 stuff as you have been.

11 And I think we're, at this point, pretty
12 much done with you, and can excuse you as
13 witnesses. And we'll shift to the Commission
14 Staff.

15 MR. THOMPSON: Thank you. I think Mr.
16 Olstowski has a few comments from IID's
17 perspective.

18 HEARING OFFICER SHEAN: Certainly.

19 MR. OLSTOWSKI: Yeah, on behalf of IID
20 I'd like to thank the CEC Staff on their execution
21 of the SPPE process for the Niland Gas Turbine
22 Plant.

23 IID is committed to balancing the need
24 for additional generating resources with the need
25 to maintain a healthy environment for the future.

1 And I believe that the CEQA process has helped IID
2 to insure that balance.

3 I'd like to especially thank Jack
4 Caswell, CEC's Project Manager, for his balanced
5 approach towards the project, and success in
6 delivering documents within committed timelines.

7 IID looks forward to complete the El
8 Centro Unit 3 Repowering project, SPPE process,
9 with the same balance and cooperative spirit.
10 Thank you.

11 HEARING OFFICER SHEAN: Thank you very
12 much.

13 All right, we'll go now to the
14 Commission Staff.

15 MS. WILLIS: We'd like to call Mr. Steve
16 Baker.

17 HEARING OFFICER SHEAN: Why don't we do
18 Mr. Caswell, as well, since I have a question of
19 him.

20 MS. WILLIS: Okay.
21 Whereupon,

22 STEVE BAKER and JACK CASWELL
23 were called as witnesses herein, and after first
24 having been duly sworn, were examined and
25 testified as follows:

1 THE REPORTER: Please state your full
2 names for the record.

3 MR. CASWELL: Jack Caswell,
4 C-a-s-w-e-l-l.

5 MR. BAKER: Steve Baker, B-a-k-e-r.

6 MS. WILLIS: And at this time we have no
7 direct questions, but we would like to allow the
8 Committee to ask any questions of our witnesses.

9 HEARING OFFICER SHEAN: All right. Let
10 me just indicate for the applicant, I think you
11 know, as well as just for the record, first of all
12 the reason we've asked Mr. Baker here is that the
13 only issue that arose that had impacts to the
14 community that we could discern was the potential
15 for noise impacts to nearby residents. Basically
16 at various points on the compass, east of the
17 project, southeast of the project. And west of
18 the project in the community of Niland there's a
19 trailer park there.

20 So we wanted to have him come and
21 explain the nature of the analysis performed by
22 the staff, and how it arrived at the condition
23 noise-3 that it has. And the substance for their
24 belief that this condition will satisfy the
25 requirement under CEQA that there are no

1 significant adverse environmental noise impacts.

2 And so, with that, if you could describe
3 that process briefly, Mr. Baker. We have read the
4 noise portion of the final initial study, so have
5 it in some detail. But would just like to get it
6 sort of live and in person from you.

7 MR. BAKER: As you've read in the
8 initial study to determine whether there are
9 likely to be adverse noise impacts, we compared
10 the predicted or projected noise from the power
11 plant to the existing noise environment at any
12 sensitive receptors, which in this case are
13 residences.

14 If the power plant will increase the
15 noise level at those residences more than some
16 amount, then we can guess that there'll probably
17 be adverse impacts. If the increase in noise
18 level at the residences is less than some amount,
19 then we say there probably won't be any.

20 Typically we say that -- well, typically
21 we take a very conservative approach. The
22 California Energy Commission Staff, I believe, is
23 the only body around that compares power plant
24 noise to the ambient background or L90 level.
25 Every other agency I'm aware of uses and LEQ or

1 equivalent energy level comparison, or an L50,
2 50th percentile level.

3 So we're setting a more stringent
4 standard by comparing noise levels to the
5 background level. However, the value in this is I
6 don't believe there have ever been any serious
7 noise complaints from anyone living near a
8 California Energy Commission-permitted power
9 plant.

10 This is the way that staff has been
11 doing this analysis for more than the 14 years
12 I've been doing noise here. I believe that the
13 people before me, they did it since the early days
14 of the Commission.

15 So, given this conservative approach, we
16 compared projected noise levels. And what we try
17 to do is we compare the projected noise level from
18 the power plant to the background ambient levels.
19 And we say that if the increase in noise level at
20 the receptors is less than 5 decibels, we can't
21 imagine there'd be a significant adverse impact.

22 If the increase in noise levels at the
23 receptors is more than 10 decibels, there's a
24 potential for a significant adverse impact.

25 In between 5 and 10 decibels we look at

1 the specifics of the case.

2 The reason this was raised as an issue
3 in this project is because it's an SPPE. In an
4 AFC process we go through a data adequacy
5 procedure. And if this had been an AFC, staff
6 would have recommended that the application be
7 found data inadequate in the area of noise because
8 the information presented in the application from
9 the ambient noise survey performed by IID was
10 inadequate for us to do our analysis.

11 But once we talked with the applicant,
12 explained what we needed and they understood what
13 we needed, they went out and they performed
14 another analysis. They presented the figures.
15 And we performed our magic and easily came to the
16 conclusion that there should be no significant
17 adverse impacts from the project.

18 HEARING OFFICER SHEAN: Can you describe
19 briefly, I know you used the terms that are used
20 in the trade, the LEQ and L90, to just inform the
21 Committee and the record that the essential
22 difference between the analytical method used by
23 the staff and that for the information initially
24 submitted by the applicant, is the difference in
25 averaging times for the measured noise?

1 MR. BAKER: That's correct. The
2 application surveyed the noise at the nearest
3 sensitive receptor for a period of 25 hours. And
4 then presented only a single 25-hour average for
5 the LEQ and for the L90.

6 And the reason we feel that's not
7 appropriate is because people are more sensitive
8 to noise at night when they're trying to sleep.
9 And so if the noise environment in that
10 neighborhood is quieter at night than during the
11 daytime, a power plant that doesn't present a
12 significant impact during the day might easily
13 present a significant impact at night.

14 Without hourly or other more detailed
15 noise figures, we couldn't determine that. The
16 application only showed a single 25-hour average.

17 So I asked the applicant if they'd
18 provide more detailed numbers. And they went back
19 and provided the numbers. And once I analyzed
20 them, using our standard procedure, I determine
21 that there should be no adverse impacts.

22 HEARING OFFICER SHEAN: And so condition
23 noise-3, from the staff's perspective, captures
24 the four, is it four consecutive quietest hours
25 during the nighttime, and would require the

1 applicant not to exceed the 45 dba during that
2 period?

3 MR. BAKER: That's correct.

4 HEARING OFFICER SHEAN: Okay. All
5 right, thank you. Any additional questions? Any
6 questions from you, Mr. Thompson?

7 MR. THOMPSON: No. But I would like, on
8 behalf of applicant, to thank Mr. Baker for his
9 diligence in reaching an accord, asking us for
10 information that he could then use. It was
11 helpful in getting to the end point in this case.

12 HEARING OFFICER SHEAN: Thank you. All
13 right, thank you, Mr. Baker.

14 And I just have a question or two for
15 you, Mr. Caswell. You are the project manager on
16 this matter, and were instrumental in the
17 organizing of the preparation of the draft of the
18 initial studies, is that correct?

19 MR. CASWELL: Correct.

20 HEARING OFFICER SHEAN: And you were
21 also responsible for the preparation of a document
22 fundamentally entitled, a proposed mitigated
23 negative declaration, is that correct?

24 MR. CASWELL: Correct.

25 HEARING OFFICER SHEAN: And can you tell

1 us what you did with respect to the processing of
2 those two documents, either related to the state
3 clearinghouse, or the County of -- Imperial County
4 in terms of compliance with what you understand to
5 be the requirements of CEQA?

6 MR. CASWELL: Yes. Based on the CEQA
7 compliance requirements for the filing of a
8 proposed mitigated negative dec, we filed a copy
9 of this document, the draft initial study, with
10 the clearinghouse, as well as the County, Imperial
11 County.

12 Those documents were sent to the
13 clearinghouse, I can't remember exactly what date
14 that was. We took them over there the very first
15 day we published this document, which was on --
16 I've been on -- August 30th to the clearinghouse.

17 And I contacted the County and we mailed
18 a copy of, a hard copy as well as a cover for that
19 proposed mitigated negative dec to the County
20 Clerk in Imperial County to be posted at the
21 County Offices. And it probably arrived, I would
22 imagine, I have not had a call back from them, but
23 about within seven days after that filing, which
24 would have made that what, September 6th.

25 And we believe that by filing that

1 proposed mitigated negative dec at the
2 clearinghouse and with the County that we've met
3 the CEQA requirements for a review period for that
4 proposed mitigated negative dec.

5 HEARING OFFICER SHEAN: So, if the
6 Commission were to actually adopt this on October
7 11th, insofar as you are aware, that all the CEQA
8 requirements with regard to publication, posting,
9 distribution or anything else of that nature will
10 have been met?

11 MR. CASWELL: Correct. My reading of
12 the CEQA requirements on that require that the
13 County have 20 days posting; and the clearinghouse
14 would have 30 days. And that would meet that
15 timeframe.

16 HEARING OFFICER SHEAN: All right, thank
17 you very much. Questions? Any questions from
18 you, Mr. Thompson?

19 MR. THOMPSON: None for me, thank you.

20 HEARING OFFICER SHEAN: All right. Why
21 don't we have you move the admission of your final
22 initial study and the proposed mitigated negative
23 declaration document and any other information you
24 would --

25 MS. WILLIS: At this time we'd just like

1 to move in those two documents, the final initial
2 study and the proposed mitigated negative
3 declaration, into the record.

4 HEARING OFFICER SHEAN: Is there
5 objection?

6 MR. THOMPSON: No objection.

7 HEARING OFFICER SHEAN: Hearing no
8 objection, those two documents are admitted.

9 I think we have now a fairly well
10 rounded and complete record for the purpose of the
11 Committee's preparation of a Presiding Member's
12 Proposed Decision.

13 At this point it's appropriate for the
14 Committee to ask if there are any comments or
15 questions from any member of the public. I can
16 tell you, sitting here, that it's very clear that
17 in the audience at the Commission headquarters
18 there are no members of the public present.

19 And we have had the telephone line open
20 for approximately the last 40 minutes and have had
21 no call from any member of the public wishing to
22 comment or even listen in to the proceeding.

23 So, on that basis it appears that this
24 matter is fully uncontested and that there is no
25 public concern that has caused any member of the

1 public to contact us with regard to the matters
2 that we've noticed here today, which would have
3 indicated that we would be proceeding to this
4 evidentiary hearing.

5 And anticipate that therefrom the
6 Committee would prepare a Presiding Member's
7 Proposed Decision based upon this uncontested
8 record. And it is our intention to do that and
9 have it released early next week. So it will be
10 available to members of the public along with a
11 notice that the Commission will conduct a hearing
12 on October 11th, during a regularly scheduled
13 business meeting, for the purpose of considering
14 and adopting the Committee's Presiding Member's
15 Proposed Decision.

16 So, are there any comments or questions
17 from either party at this point?

18 MS. WILLIS: None.

19 MR. THOMPSON: No.

20 HEARING OFFICER SHEAN: All right. This
21 will likely be the Committee's last opportunity to
22 address you outside of the full Commission
23 setting. And with that, I think it's appropriate
24 to thank IID, Mr. Thompson, and your contractors
25 and consultants for your cooperation and

1 particularly our informational hearing, which was
2 a rather unique event. And fun, in its own way, I
3 guess is about the best way to express that.

4 (Laughter.)

5 HEARING OFFICER SHEAN: But it was very
6 interesting to see the community of Niland and get
7 some of the flavor by visiting your local
8 merchants, particularly the restaurants and things
9 like that. And try to get a grasp on what it was
10 that prompted the community to come into being in
11 the first place. And then, unfortunately watch
12 and see what's happened as events changed on them,
13 and they are now what they are.

14 But it's obvious that this project will
15 benefit a growing electricity demand in Imperial
16 County, that IID needs it. And we think that
17 between the work that has been preformed by IID
18 and your team, as well as the Commission Staff,
19 that the process that is developed here at the
20 Commission for the purpose of assuring not only
21 that the energy needs of the state are met, but
22 it's done in a manner that is least harmful to the
23 environment and least impactful to the local
24 community, has been met and has been served.

25 So, with that we'd like to thank you

1 all, and thank the Commission Staff for the
2 diligence in the preparation of the final initial
3 study and the preparation, posting, et cetera, of
4 all the documents that are required to meet, you
5 know, what is a more complex, it seems, even
6 though it's supposed to be simpler, a more complex
7 requirement for the SPPE. So, thank you.

8 With that, --

9 ASSOCIATE MEMBER BYRON: I had a
10 comment. Mr. Shean, thank you for developing such
11 a complete record for the Presiding Member,
12 Commissioner Boyd. I'm sure he'll appreciate that
13 very much.

14 I'd like to also thank the staff for
15 their thoroughness and the applicant for their
16 cooperativeness.

17 I don't have any additional questions,
18 obviously this is uncontested. And appreciate
19 everyone's effort to be here. I'm sure we would
20 have started on time had we had a more cooperative
21 applicant in the business meeting that we had
22 earlier.

23 Mr. Ward, would you like to add anything
24 on Commissioner Boyd's behalf?

25 ADVISOR WARD: No, I think Jim concurs

1 with what you just said, and we all did enjoy our
2 visit to Niland.

3 ASSOCIATE MEMBER BYRON: Thank you.

4 HEARING OFFICER SHEAN: All right, with
5 that, I don't know who won the pool for how long
6 this would take, but I think you owe us a drink.

7 (Laughter.)

8 HEARING OFFICER SHEAN: Thanks very
9 much, we're adjourned.

10 (Whereupon, at 2:07 p.m., the prehearing
11 conference and evidentiary hearing were
12 adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Prehearing Conference and
Evidentiary Hearing; that it was thereafter
transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
conference and hearing, nor in any way interested
in outcome of said conference and hearing.

IN WITNESS WHEREOF, I have hereunto set
my hand this 17th day of June, 2006.

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